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11 **UNITED STATES DISTRICT COURT**
12
13 **FOR THE DISTRICT OF NEVADA**

14 UNITED STATES OF AMERICA, *ex rel.* JOI
15 CHILDS,

16 Plaintiff,

17 vs.

18 ALPHA HOME HEALTH AGENCY, INC., a
19 Nevada corporation; PHILIP A. OJO, an
20 individual; STECKLER MEDICAL
21 INSTITUTE, CHTD., d/b/a INTERNAL
22 MEDICINE ASSOCIATES, DOE
23 INDIVIDUALS I through X, and DOE
24 BUSINESS ENTITIES I through X, inclusive,

25 Defendants.

CIVIL ACTION NO.: 2:13-cv-00166-GMN-
PAL

**JOINT MOTION TO DISMISS WITHOUT
PREJUDICE AS TO CLAIMS AGAINST
ALPHA HOME HEALTH AGENCY, INC.,
AND PHILIP A. OJO**

AND ORDER

26 Plaintiff JOI CHILDS and Defendants ALPHA HOME HEALTH AGENCY, INC.
27 (“Alpha”) and PHILIP A. OJO (collectively “Defendants”), by and through their attorneys of
28 record, hereby submit their Joint Motion for Dismissal pursuant to Federal Rule of Civil
Procedure 41(a)(2).

MEMORANDUM OF POINTS AND AUTHORITIES

This is a qui tam action filed by Plaintiff Joi Childs against Defendant Alpha and Ojo on
behalf of the United States arising out of alleged violations of the False Claims Act. Plaintiff
also brought retaliatory discharge claims under the Act against Defendant Steckler Medical

1 Institute, Chtd., dba Internal Medicine Associates (“IMA”). Plaintiff’s claims against IMA were
2 resolved at an Early Neutral Evaluation conference held on August 30, 2013, and were
3 subsequently dismissed on November 8, 2013. (Dkt. #38.)

4 Federal Rule of Civil Procedure 41(a)(2) states in pertinent part:

5 Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff’s
6 request only by court order, on terms that the court considers proper. If a
7 defendant has pleaded a counterclaim before being served with the plaintiff’s
8 motion to dismiss, the action may be dismissed over the defendant’s objection
9 only if the counterclaim can remain pending for independent adjudication. Unless
10 the order states otherwise, a dismissal under this paragraph (2) is without
11 prejudice.

12 Plaintiff has determined through written discovery and independent investigation that
13 Defendants Alpha and Ojo lack the non-exempt financial resources to satisfy any judgment
14 which may result from this action. Defendants Alpha and Ojo, while denying any and all
15 liability, concur with Plaintiff’s assessment. Accordingly, the parties submit this joint motion for
16 dismissal of Plaintiff’s remaining claims, without prejudice, with each party to bear its own
17 attorney fees and costs.

18 Because this is a qui tam case, the parties respectfully request that the Court await receipt
19 of a written notice of consent to the dismissal from the United States before entering the
20 requested dismissal without prejudice.

21 WHEREFORE, Plaintiff and Defendants jointly move the Court for its order dismissing
22 this action without prejudice as to remaining Defendants Alpha and Ojo, with each party to bear
23 its own attorney fees and costs.

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1 DATED this 11th day of December, 2013.

DATED this 11th day of December, 2013.

2 LAXALT & NOMURA, LTD.

ALBRIGHT, STODDARD, WARNICK &
ALBRIGHT

3 By /s/ Daniel T. Hayward

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8 *Attorneys for Plaintiff, Joi Childs*

By /s/ G. Mark Albright

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*Attorneys for Defendants Alpha Home
Health Agency, Inc. and Philip A. Ojo*

11 **ORDER**

12 Pursuant to the Notice of Consent to Dismissal (ECF No. 43) filed by the United
13 States of America, and finding good cause, the Court hereby GRANTS the Joint Motion
14 to Dismiss (ECF No. 42) filed by Plaintiff Joi Childs and Defendants Alpha Home
Health Agency, Inc., and Philip A. Ojo.

15 This action is hereby **DISMISSED with prejudice** as to the remaining
16 Defendants, with each party to bear its own attorney fees and costs, and this case shall
17 be closed.

18 **IT IS SO ORDERED** this 12th day of December, 2013.

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21 Gloria M. Navarro
22 United States District Judge
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